

WAC 173-446-600 Compliance obligations. (1) All covered entities and opt-in entities must comply with all requirements for monitoring, reporting, participating in auctions, and holding and transferring compliance instruments, as well as all other provisions of this chapter. All general market participants must comply with all requirements for participating in auctions, and holding and transferring compliance instruments, as well as all other provisions of this chapter.

(2) Unless otherwise required by specific provisions of this regulation, all parties participating in the program must provide to ecology within 14 calendar days any additional information requested by ecology concerning their participation in the program.

(3) By 5:00 p.m. Pacific Time November 1st of 2024 and each year thereafter, each covered entity and opt-in entity must have in its compliance account sufficient compliance instruments of former vintage years to cover at least 30 percent of its covered emissions for the previous calendar year.

(4) By 5:00 p.m. Pacific Time November 1st of the year following the final year of each compliance period, each covered entity and each opt-in entity must have transferred to its compliance account one compliance instrument for each metric ton of covered emissions of carbon dioxide equivalent emitted by that party during the compliance period. Except as provided in (a) and (b) of this subsection, allowances used for compliance under this provision must be of the vintage of any year of the compliance period or of any prior year.

(a) When using allowances for compliance, EITE facilities may provide future vintage allowances obtained as described in WAC 173-446-260 in the process of reconciling their compliance obligation for a given year with their actual production data for that year.

(b) Allowances obtained from the allowance price containment reserve may be used for compliance at any time.

(5) Compliance instruments to be used for compliance must be in the complying covered or opt-in entity's compliance account. Once placed in a compliance account, compliance instruments can only be removed by ecology. Immediately after each compliance deadline, ecology will remove and permanently retire sufficient compliance instruments from each covered entity's or opt-in entity's compliance account to cover that covered entity's or opt-in entity's compliance obligation.

(6) Deferred compliance requirement for electricity exported to an external GHG emissions trading program for first compliance period. For any portion of covered emissions from a first jurisdictional deliverer in Washington state exported from Washington and imported into an external GHG emissions trading program, as demonstrated to ecology's satisfaction through means established under chapter 173-441 WAC, the requirements of subsection (2) of this section do not apply. Only the requirements of subsection (3) of this section apply to that portion of covered emissions. This deferral is only in effect for the first compliance period, and for subsequent compliance periods subsections (2) and (3) of this section both apply.

(7) A portion of each covered entity's or opt-in entity's compliance obligation may be met by offset credits placed in the covered entity's or opt-in entity's compliance account. Each offset credit is worth one metric ton of carbon dioxide equivalent.

(a) For the first compliance period (January 1, 2023, through December 31, 2026):

(i) No more than five percent of a covered entity's or opt-in entity's compliance obligation may be satisfied by offset credits from projects not located on federally recognized tribal land.

(ii) In addition to, but separate from the limit in (a)(i) of this subsection, a covered entity or opt-in entity may satisfy up to three percent of its compliance obligation using offset credits generated from offset projects on federally recognized tribal land.

(iii) Unless ecology has linked with an external GHG trading system, all offset credits must provide direct environmental benefits to Washington state.

(iv) If ecology has linked with an external GHG trading system, at least 50 percent of any offset credits used by a covered entity or opt-in entity for compliance must be sourced from offset projects that provide direct environmental benefits in Washington state. The remaining amount must be located in a jurisdiction with which ecology has linked.

(b) For the second compliance period (January 1, 2027, through December 31, 2030):

(i) No more than four percent of a covered entity's or opt-in entity's compliance obligation may be satisfied by offset credits from projects not located on federally recognized tribal land.

(ii) In addition to, but separate from the limit in (b)(i) of this subsection, a covered entity or opt-in entity may satisfy up to two percent of its compliance obligation using offset credits generated from offset projects on federally recognized tribal land.

(iii) Unless ecology has linked with an external GHG trading system, all offset credits must provide direct environmental benefits to Washington state.

(iv) If ecology has linked with an external GHG trading system, at least 75 percent of any offset credits used by a covered entity or opt-in entity for compliance must be sourced from offset projects that provide direct environmental benefits in Washington state. The remaining amount must be located in a jurisdiction with which ecology has linked.

(c) For the third and subsequent compliance periods:

(i) No more than four percent of a covered entity's or opt-in entity's compliance obligation may be satisfied by offset credits including offset credits from projects on federally recognized tribal land.

(ii) A covered entity or opt-in entity may satisfy an additional two percent of its compliance obligation using offset credits generated from offset projects on federally recognized tribal land.

(iii) Unless ecology has linked with an external GHG trading system, all offset credits must provide direct environmental benefits to the state.

(iv) If ecology has linked with an external GHG trading system, at least 75 percent of any offset credits used by a covered entity or opt-in entity for compliance must be sourced from offset projects that provide direct environmental benefits in Washington state. The remaining amount must be located in a jurisdiction with which ecology has linked.

(d) Ecology may reduce the limits in (a)(i) and (b)(i) of this subsection for a specific covered entity or opt-in entity if ecology, in consultation with the environmental justice council, determines that the covered or opt-in entity has or is likely to:

(i) Contribute substantively to cumulative air pollution burden in an overburdened community identified by ecology, in consultation with the environmental justice council.

(ii) Violate any permits required by any federal, state, or local air pollution control agency where the violation may result in any increase in emissions.

[Statutory Authority: RCW 70A.65.220. WSR 22-20-056 (Order 21-06), § 173-446-600, filed 9/29/22, effective 10/30/22.]